

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MERLE TEMPLE, JR.,  
Movant,  
vs.  
UNITED STATES OF AMERICA,  
Respondent.

CRIMINAL ACTION NO.  
1:04-CR-0568-CC-2

CIVIL ACTION NO.  
1:12-CV-0427-CC

MOTION TO VACATE  
28 U.S.C. § 2255

## ORDER

This matter is before the Court on Magistrate Judge Gerrilyn G. Brill's Final Report and Recommendation ("R&R") [Doc. No. 544]. In the R&R, Magistrate Judge Brill recommends that Movant Merle Temple, Jr.'s Motion [Doc. No. 532] and a certificate of appealability be denied. Magistrate Judge Brill also recommends that the United States of America's motion for an extension of time be granted *nunc pro tunc*. The record reflects that no objections to the R&R have been filed and that the time period for filing objections has elapsed.

After reviewing the R&R for plain error according to United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), the Court finds that the R&R is correct both in fact and in law. Accordingly, the Court **ADOPTS** the Final Report and Recommendation [Doc. No. 544]. Therefore, the Court **DENIES** Temple's Motion [Doc. No. 532] and a certificate of appealability; the Court **GRANTS** the United States of America's motion *nunc pro tunc*.

SO ORDERED this 19th day of March, 2013.

*s/ CLARENCE COOPER*

CLARENCE COOPER  
SENIOR UNITED STATES DISTRICT JUDGE